



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,971	10/17/2001	Sean T. Forde	740984-247	4305

7590 12/01/2004

PATENT ADMINISTRATOR
TESTA, HURWITZ & THIEBEAULT, LLP
125 HIGH STREET TOWER
BOSTON, MA 02110

EXAMINER

BUI, VY Q

ART UNIT	PAPER NUMBER
----------	--------------

3731

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	09/977,971		FORDE ET AL.	
	Examiner		Art Unit	
	Vy Q. Bui		3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 22-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5/23/03;4/19/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3731

DETAILED ACTION

Election/Restrictions

Claims 22-35 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 8/26/2004.

Applicants traversed the restriction on the ground that "while the different groups of claims can be classified in different classes, there is no further search that is needed to examine claim groups 11 and 111. The inventive features recited in claim 22, for example, is similar to limitations recited in claim 3, which has already been examined in substance" (Remarks, 8/26/2004, page 9).

The Examiner would like to confirm that the invention in claim 22 is not the same as the invention in claim 3 and an examination of newly added claim 22 will require further search/consideration and would cause a serious burden to the Examiner.

Claim Rejections - 35 USC § 112

Claim 2 recites the limitation "said medical implant" in line 2. There is no positive antecedent basis for this limitation in the claim. The recitation "a medical implant" presented in the preamble of claim 1 but not in the body of the claim, therefore is not a positive antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless

Art Unit: 3731

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 3-5, 7-14, 16-19 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by LETENDRE et al. (6,214,036).

LETENDRE (Fig. 1-5) discloses male locking body member 14 having flexible locking supports/guide fingers 20, locking members 28, alignment extension (see reproduced Letendre's Fig. 2 on page 6), female lock receiving body member 60 having first body end 52 with indented portions/space openings 54, extension receiving cut out (see reproduced Letendre's Fig. 2, page 6) and lock operating sheath 50 as recited in the claims. Notice that sheath 40 can slide back and forth over section 28 of the male locking body member including the alignment extension to engage or disengage (or reversibly engage) the male locking body member to the female lock receiving member as recited in claim 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3731

Claims 2, 6, 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over LETENDRE et al. (6,214,036).

As to claims 2, 6 and 15, LETENDRE discloses substantially all limitations as recited in the claims and the medical device secured to female lock-receiving support member 60 instead of the medical implant is secured to male locking body member 24. It would have been obvious to one of ordinary skill in the art to secure the LETENDRE medical device to a female lock-receiving support member 60 as claimed because this configuration is only a switch of the securement of the medical device to attach to male locking body member 24 to a securement of the medical device to attach to female lock-receiving support member 60 as recited in the claims without any significant improvement in the performance of the device.

As to claim 20, LETENDRE discloses substantially all limitations as recited in the claim except the medical device is a stent instead of a filter as recited in the claim. Even though the intended use of the device is different, LETENDRE device includes substantially the same structure as the device in the present invention, therefore, claim 20 is unpatentable over LETENDRE device.

Response to Amendment

The amendment filed on 4/9/2004 under 37 CFR 1.131 has been considered but is ineffective to overcome Letendre-'036 reference because the claim languages still read on Letendre-'036 device as indicated in the above rejection.

Art Unit: 3731

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vy Q. Bui whose telephone number is 571-272-4692. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



11/25/2004

Vy Q. Bui
Primary Examiner
Art Unit 3731

FIG. 2

